



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL
ATTORNEY GENERAL

April 13, 1973

Honorable Neil Caldwell, Chairman
Appropriations Committee
House of Representatives
P. O. Box 2910
Austin, Texas 78767

Letter Advisory No. 10

Re: Is the provision in rider
to general appropriations
bill requiring railroads
to contribute to the costs
of warning devices valid?

Dear Representative Caldwell:

Your question addressed to us is as follows:

"In the event the general appropriations bill contains a rider provision making appropriations to the Highway Department for warning devices at railroad-highway crossings contingent upon participation in the cost by the railroad companies, and, should the railroad companies refuse to participate, can the State (Highway Department) enforce compliance? "

In 1971 the Legislature amended § 87 of Article 6701d of Vernon's Texas Civil Statutes (Acts, 1971, 62nd Leg., Ch. 83, p. 737) so that the section now reads, in part:

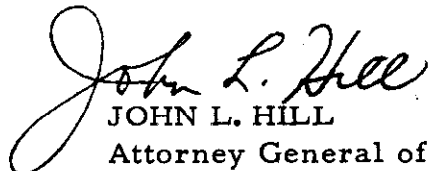
"The State Highway Commission and local authorities with respect to highways under their respective jurisdictions are hereby authorized to designate particularly dangerous highway grade crossing of railroads and to erect stop signs or other standard traffic-control devices thereat [T]he costs for installation and maintenance of mechanically operated grade crossing safety devices, gates, signs, and signals shall be apportioned and paid on the same percentage ratio and in the same proportionate amounts by the State and all political subdivisions thereof as is the presently established policy and practice of the State of Texas and the Federal Government. "

Although there are a number of statutes imposing upon railroads the duty to maintain crossings, there is none requiring them to erect warning devices other than signboards (Art. 6370, V. T. C. S.) and there is none requiring them to participate in the cost of such devices if they are erected by the State. See for example, Articles 6320, 6321, 6371, 6502, 1015(27) and 1151, Vernon's Texas Civil Statutes.

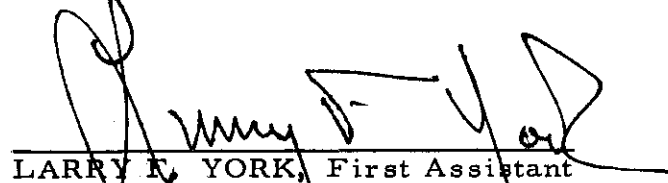
In the absence of existing legislation requiring railroads to contribute to the cost of warning devices at crossings, a rider to the general appropriations bill requiring railroads to participate in such costs would be void. Bills enacting general legislation may embrace only a single subject. Moore v. Sheppard, 192 S. W. 2d 559 (1946); § 35, Article 3, Constitution of Texas.

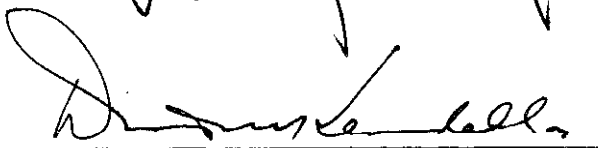
It follows that railroad companies cannot be forced to comply with any such condition contained in the appropriations bill not already required of them by law.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


LARRY E. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinion Committee